

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

PETITION OF DOE VALLEY UTILITIES, INC.)
FOR DETERMINATION AS TO)
JURISDICTIONAL STATUS OF DOE VALLEY)
UTILITIES INC., AND ADDITIONAL OR)
ALTERNATIVE DETERMINATIONS)

Case No. 2003-00360

DOE VALLEY UTILITIES, INC.'S MEMORANDUM
REGARDING THE APPROPRIATE SCOPE
OF THE PROCEEDING

Doe Valley Utilities, Inc. ("DVU") filed the initial pleading in this case, and therein set forth its view of the scope of the determination to be made by the Commission. DVU requested that the Commission decide whether DVU is indeed a public utility simply because it provides water to six customers outside of Doe Valley subdivision. Inherent in this inquiry is that the Commission must determine whether under the facts as they relate to DVU there is service "to and for the public" within the meaning of KRS 278.010(3)(d). If the service provided by DVU to the limited number of customers residing or doing business outside of the boundaries of Doe Valley subdivision is determined to be sufficient to make DVU a public utility, then can DVU transfer those customers to Meade County Water District, a water utility that was established for the purpose of providing service to the general public? As with most issues there may be subsets of inquiry, but the primary focus of the proceeding should be on the issue of whether DVU really is a public utility.

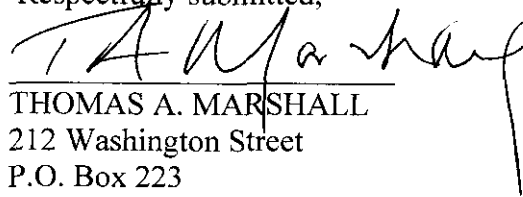
DVU believes that its initial Petition to the Commission adequately sets forth the facts and legal issues that define the scope of the proceeding, and incorporates the

Petition, by reference, as part of its statement of the appropriate scope of this proceeding. Again, the key consideration for the Commission is whether DVU has the characteristics and sufficient indicia of a public utility so as to be subject to the oversight and regulatory strictures designed to protect the general public. In the Commission's Order in Case No. 89-232, it was stated as follows:

The weight of the case law from across the country persuades this Commission that Electric Energy, by serving only DOE-PGDP, is not providing electric service to or for the public. "One offers service to the 'public' ... when he holds himself out as willing to serve all who apply up to the capacity of his facilities." North Carolina ex rel. Utilities Comm'n v. Carolina Tel. and Tel. Co., 148 S.E. 2d 100, 109 (N.C. 1966).

DVU submits that it is a private, not a public utility. It has never offered its services to the general public, but rather agreed to extend services to a very limited number of non-residents who otherwise would have had no access to water. Those customers now have available the services of Meade Co. Water District if they desire to receive service from a regulated public utility. DVU's by-laws now prohibit it from offering services to any non-member of Doe Valley community. Accordingly, the Commission should determine that DVU is not subject to the jurisdiction of the Commission.

Respectfully submitted,


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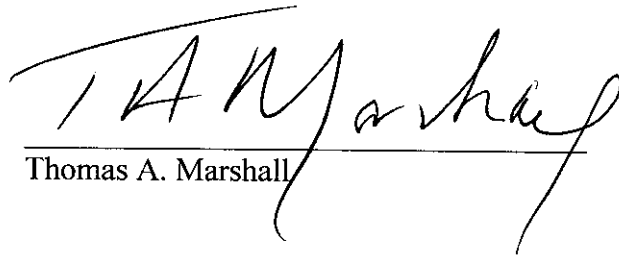
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CERTIFICATE OF SERVICE

I hereby certify that a the foregoing Memorandum was served on Holland N. McTyeire, V Greenbaum Doll & McDonald PLLC, 3500 National City Tower, 101 South Fifth Street, Louisville, KY 40202-3197 by mailing a copy on the 14th day of December, 2003.



Thomas A. Marshall